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104TH CONGRESS
2D SESSION

# S. 2034

To amend title XVIII of the Social Security Act to make certain changes to hospice care under the Medicare program.

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IN THE SENATE OF THE UNITED STATES

AUGUST 2, 1996

Mr. BREAUX (for himself, Mr. MACK, Mr. GRAHAM, and Mr. COHEN) introduced the following bill; which was read twice and referred to the Committee on Finance

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# A BILL

To amend title XVIII of the Social Security Act to make certain changes to hospice care under the Medicare program.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Medicare Hospice Benefit Amendments of 1996".

**SEC. 2. HOSPICE CARE BENEFIT PERIODS.**

(a) RESTRUCTURING OF BENEFIT PERIOD.—Section 1812 of the Social Security Act (42 U.S.C. 1395d) is amended in subsections (a)(4) and (d)(1), by striking ", a subsequent period of 30 days, and a subsequent exten-

sion period" and inserting "and an unlimited number of subsequent periods of 60 days each".

(b) CONFORMING AMENDMENTS.—(1) Section 1812(d)(2)(B) of such Act (42 U.S.C. 1395d(d)(2)(B)) is amended by striking "90- or 30-day period or a subsequent extension period" and inserting "90-day period or a subsequent 60-day period".

(2) Section 1814(a)(7)(A) of such Act (42 U.S.C. 1395f(a)(7)(A)) is amended—

(A) in clause (i), by inserting "and" at the end;

(B) in clause (ii)—

(i) by striking "30-day" and inserting "60-day"; and

(ii) by striking "and" at the end and inserting a period; and

(C) by striking clause (iii).

**SEC. 3. AMBULANCE SERVICES, DIAGNOSTIC TESTS, CHEMOTHERAPY SERVICES, AND RADIATION THERAPY SERVICES INCLUDED IN HOSPICE CARE.**

Section 1861(dd)(1) of the Social Security Act (42 U.S.C. 1395x(dd)(1)) is amended—

(1) in subparagraph (E), by inserting "anticancer chemotherapeutic agents and other" before "drugs";

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(2) in subparagraph (G), by striking "and" at the end;

(3) in subparagraph (H), by striking the period at the end and inserting a comma; and

(4) by inserting after subparagraph (H) the following:

"(I) ambulance services,

"(J) diagnostic tests, and

"(K) radiation therapy services.".

**SEC. 4. CONTRACTING WITH INDEPENDENT PHYSICIANS OR PHYSICIAN GROUPS FOR HOSPICE CARE SERVICES PERMITTED.**

Section 1861(dd)(2) of the Social Security Act (42 U.S.C. 1395x(dd)(2)) is amended—

(1) in subparagraph (A)(ii)(I), by striking "(F),"; and

(2) in subparagraph (B)(i), by inserting "or under contract with" after "employed by".

**SEC. 5. WAIVER OF CERTAIN STAFFING REQUIREMENTS FOR HOSPICE CARE PROGRAMS IN NON-URBANIZED AREAS.**

Section 1861(dd)(5) of the Social Security Act (42 U.S.C. 1395x(dd)(5)) is amended—

(1) in subparagraph (B), by inserting "or (C)" after "subparagraph (A)" each place it appears; and

(2) by adding at the end the following:

"(C) The Secretary may waive the requirements of paragraphs (2)(A)(i) and (2)(A)(ii) for an agency or organization with respect to the services described in paragraph (1)(B) and, with respect to dietary counseling, paragraph (1)(H), if such agency or organization—

"(i) is located in an area which is not an urbanized area (as defined by the Bureau of Census), and

"(ii) demonstrates to the satisfaction of the Secretary that the agency or organization has been unable, despite diligent efforts, to recruit appropriate personnel.".

**SEC. 6. LIMITATION ON LIABILITY OF BENEFICIARIES AND PROVIDERS FOR CERTAIN HOSPICE COVERAGE DENIALS.**

(a) IN GENERAL.—Section 1879(g) of the Social Security Act (42 U.S.C. 1395pp(g)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and moving such subparagraphs 2 ems to the right;

(2) by striking "is," and inserting "is—";

(3) by making the remaining text of subsection (g), as amended, that follows "is—" a new paragraph (1) and indenting such paragraph 2 ems to the right;

(4) by striking the period at the end and inserting "; and"; and

(5) by adding at the end the following new paragraph:

"(2) with respect to the provision of hospice care to an individual, a determination that the individual is not terminally ill.".

(b) WAIVER PERIOD EXTENDED.—Section 9305(f)(2) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "and before December 31, 1995.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on December 31, 1995.

**SEC. 7. EXTENDING THE PERIOD FOR PHYSICIAN CERTIFICATION OF AN INDIVIDUAL'S TERMINAL ILLNESS.**

Section 1814(a)(7)(A)(i)(II) of the Social Security Act (42 U.S.C. 1395f(a)(7)(A)(i)(II)) is amended by striking ", not later than 2 days after hospice care is initiated (or, if each certify verbally not later than 2 days after hospice care is initiated, not later than 8 days after such care is initiated)," and inserting "at the beginning of the period".

**SEC. 8. EFFECTIVE DATE.**

Except as provided in section 6(c), the amendments made by this Act shall apply to benefits provided on or after the date of the enactment of this Act, regardless of whether or not an individual has made an election under section 1812(d) of the Social Security Act before such date.

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